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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/547,220	04/11/2000	Michael Brines	10165-006-999	4714
20583	7590	09/22/2004	EXAMINER	
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017			DEBERRY, REGINA M	
		ART UNIT	PAPER NUMBER	
		1647		

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT PAPER

20040915

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Commissioner for Patents

The amendment submitted 18 December 2002 was not entered because it raises new issues that would require further consideration and/or search. Newly submitted claims (claims 40-63) recite, "without a toxic increase in hemoglobin concentration or hematocrit" and "without an increase in hematocrit". The Examiner cannot discern from the specification the difference between "without a toxic increase in hematocrit" and "without an increase in hematocrit". Thus, the claims raise potential new matter and 112, second paragraph rejections.

Furthermore, the previous claims (claims 28-39) were found allowable (see previous Office Communication 02 December 2003). Due to a potential interference, ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS from the date of this letter. Upon expiration of the period of suspension, applicant should make an inquiry as to the status of the application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina M. DeBerry whose telephone number is (571) 272-0882. The examiner can normally be reached on 9:00 a.m.-6:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda G. Brumback can be reached on (571) 272-0961. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMD
9/16/04

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